

From: Bravo, Antonio [Bravo.Antonio@epa.gov]
Sent: 3/12/2019 12:12:25 PM
To: OW-OWOW-EVERYONE [OWOWOWEVERYONE@epa.gov]
Subject: FYI Only: Water articles in the Press

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California Bill Would Cut Ocean Acidification, Sequester Carbon in Wetlands

Entire Article: [https://insideepa.com/daily-news/california-bill-would-cut-ocean-](https://insideepa.com/daily-news/california-bill-would-cut-ocean-acidification-sequester-carbon-wetlands)

[acidification-sequester-carbon-wetlands](https://insideepa.com/daily-news/california-bill-would-cut-ocean-acidification-sequester-carbon-wetlands)

A California state senator is floating multi-pronged legislation to reduce ocean acidification and sequester more carbon dioxide in coastal wetlands and other shoreline ecosystems, though the measure faces opposition from wastewater treatment agencies and funding uncertainty.

"Our ocean habitat is being damaged by the impacts of climate change. Vital species are being threatened with extinction, seawater is being acidified, and habitats that absorb carbon are being wiped out," said Sen. Scott Wiener (D-San Francisco), author of the bill, [SB 69](#), in a March 7 press release.

"Without immediate action, these impacts will only get worse. This legislation is a key step to reduce and mitigate the impacts of climate change on these ecosystems as well as our state's coastal communities and economy," he added.

SB 69 also includes several sweeping sections that generally aim to increase the water quantity and quality in numerous waterways across the state to improve fish and other marine life habitats.

Additional provisions would implement a new "blue carbon strategy" to reduce ocean acidification by requiring agencies to "denitrify" water before it is discharged into the ocean, and restore or enhance wetlands and other shoreline ecosystems and habitats to sequester more CO₂, thereby reducing greenhouse gas emissions.

"While California is taking aggressive steps to combat climate change, a blue carbon strategy can complement existing efforts to mitigate carbon emissions," the release says. "Blue carbon is carbon dioxide captured by ocean and coastal ecosystems. Blue carbon is the most effective, yet overlooked, method for long-term sequestration and storage of carbon."

The bill will carry out the blue carbon strategy by: directing the Natural Resources Agency to develop and implement a plan; transferring ballast water permitting authority from the State Lands Commission to the Water Resources Control Board (WRCB) to "better protect sea grass and kelp forests from invasive species"; determining a coastal wetland baseline and plan to achieve an annual "net gain" of ecologically functioning wetlands; directing the California Coastal Conservancy to report on a new beneficial sediment reuse program and recommend how to make the program permeant; and developing statewide goals for production of sustainable mariculture and directing the Ocean Protection Council (OPC) to report to the Legislature on progress toward the goals.

In addition, SB 69 would require WRCB, by the end of 2022, to amend the California Ocean Plan and the California Enclosed Bays & Estuaries Plan to include water quality objectives and effluent limitations that specifically address ocean acidification and hypoxia.

WRCB must require all publicly operated wastewater treatment facilities that discharge to waters subject to those plans to adopt, incorporate or improve denitrification protocols to meet the new water quality objectives and effluent limitations, according to the bill.

The bill is sponsored by the California Coastkeeper Alliance and the Pacific Coast Federation of Fishermen's Associations (PCFFA), with support from the Pacific Coast Shellfish Growers Association and the Ocean Conservancy, among other environmental and coastal economy groups, according to the release.

PCFFA last year [filed a climate change nuisance lawsuit](#) against oil companies, seeking billions in damages to their crabbing industry as a result of ocean acidification and other climate-related impacts.

"California is a leader in climate and ocean science. We have done a great job identifying the threats warming, acidification, and pollution pose to our coastal communities and environment -- but now it's time to act," said Sean Bothwell, California Coastkeeper Alliance executive director. SB 69 "will guarantee California takes no-regret actions like restoring hardworking seagrass beds and wetlands to prepare our ocean for existing and looming climate change threats."



EPA, Army Corps give up on WOTUS delay rule

Article: <https://www.eenews.net/greenwire/stories/1060126937>

The Trump administration is abandoning efforts to freeze the Obama-era Clean Water Rule nationwide, focusing instead on finalizing a replacement program.

Justice Department lawyers on Friday retreated from challenges to lower-court orders that invalidated Trump officials' attempt to stall the Obama regulation, also known as Waters of the United States, or WOTUS.

EPA and the Army Corps of Engineers will no longer defend the so-called Applicability Date Rule, their joint effort to postpone implementation of the 2015 WOTUS regulation for two years. The program — which defined which wetlands and waterways are subject to federal oversight — is in effect in 22 states and enjoined in the rest thanks to a tangle of legal action.

The agencies "are disappointed by the district courts' rulings which leave a confusing patchwork of federal regulations in place across the country," an EPA spokesman told E&E News today. "Rather than continuing to litigate the Applicability Date Rule, however, the agencies have decided to focus on the rulemaking actions underway."

The 2015 WOTUS definition has been in the Trump administration's crosshairs from the start. Officials first issued the two-year delay rule to neutralize the Obama program and then set to work on crafting a narrow regulation to replace it.

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District courts in South Carolina and Washington state struck down the delay rule, sending WOTUS back into effect in many states. Trump officials and their industry allies quickly appealed the decisions.

But last week's court action signals the administration has given up on the two-year delay — which would expire in 2020 anyway. Lawyers for the Army Corps and EPA voluntarily dismissed their appeals in the 4th U.S. Circuit Court of Appeals and the 9th U.S. Circuit Court of Appeals. They also asked a district court in New York to dismiss a separate challenge to the delay rule in light of the government's retreat in the appellate courts.

The American Farm Bureau Federation and industry groups moved to withdraw their own appeal last month. At the time, they pointed out that the government's challenge was still pending "and we strongly believe it should succeed" (*Greenwire*, Feb. 4). A lawyer for the groups did not respond to a request for comment today on federal lawyers' decision to back away from the fight.

The EPA spokesman said the Trump administration will now focus on plans to rescind and revise WOTUS. The agencies are reviewing hundreds of thousands of public comments on the rescission proposal and are accepting input on the revised definition.

Proponents of the Obama-era WOTUS definition celebrated the Trump administration's retreat on the two-year delay, but they said the action undercuts the government's arguments that the Obama program was unworkable.

"It looks like the administration has dropped its defense of this obviously illegal rule. That's a good thing," said Blan Holman, attorney for the Southern Environmental Law Center, which has defended the Clean Water Rule in the courtroom.

"But it undercuts their claim that exigent action is needed to keep the Clean Water Rule from going into effect," he added. "The Clean Water Rule has now been in effect for quite some time in much of the nation, and where it is in effect it provides far greater clarity than the case-by-case predecessor regime and the helplessly confusing replacement rule the administration has now proposed."

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Trump Eyes EPA FY20 Infrastructure Cuts but Open to Deal with Congress

Entire Article: <https://insideepa.com/daily-news/trump-eyes-epa-fy20-infrastructure-cuts-open-deal-congress>

President Donald Trump's fiscal year 2020 budget proposal floats a cut of more than \$700 million to the agency's water infrastructure grant and loan programs, but the White House is signaling openness to making a deal with lawmakers on potential funding hikes if they are able to craft a broad infrastructure package that can clear Congress.

Speaking on a March 11 press call ahead of [that morning's FY20 budget proposal release](#), a senior Trump administration official said the White House is specifically avoiding setting out its preferred terms for an infrastructure deal to provide space for Congress to craft a plan. That contrasts with past years when it floated proposals based on incentives and public-private partnerships rather than direct federal funding.

"We will provide less specifics this year than we have in the past because we really want to work with Congress on this . . . we really want Congress to come to the table," the official said.

The FY20 budget request includes \$200 billion for new, non-agency specific and undefined "infrastructure investments." The official said the funds "will lever up to \$1 trillion" in future years, but there are few details on how that money would be spent. "We wanted to be open to how Congress might be interested in constructing it."

Yet at the same time, the request for EPA's budget separately seeks deep cuts for the water infrastructure funds administered by the agency: the state revolving funds (SRFs) for clean water and drinking water, and the Water Infrastructure Finance and Innovation Act (WIFIA) program that leverages federal dollars to support borrowing at the state and local level.

Under the White House's FY20 plan, funding for the drinking water SRF would drop from \$1.1 billion in FY19 down to \$863 million, while the clean water SRF would fall from \$1.6 billion to \$1.1 billion.

The administration is also seeking a cut to WIFIA appropriations, from \$63 million in FY19 -- which is the first year the broadly supported program awarded loans -- down to \$25 million for FY20.

Those cuts are part of a broader request that would see EPA's budget cut down to \$6.1 billion, from a baseline of either \$8.1 billion or \$8.9 billion depending on how prior years' supplemental infrastructure spending is factored into the agency's overall funding level. The White House proposal uses the larger figure, leading it to calculate the overall cut at \$2.8 billion or 31 percent.

Thus, the request puts new pressure on Democrats in the House and Republicans in the Senate to negotiate an infrastructure package, which both parties have seen as a potential area for bipartisan work since President Donald Trump was elected in 2016 but which has remained elusive.

Most recently, House lawmakers floated a bill that would greatly boost the clean water SRF up to \$4 billion annually -- a dramatic departure from the White House's planned cut to that account.

The bill is backed by House infrastructure committee Chairman Rep. Peter DeFazio (D-OR) and panel members Reps. Grace Napolitano (D-CA), Don Young (R-AK) and John Katko (R-NY). It also enjoys broad support among industry, water, labor and environmental groups, suggesting it could advance given the long-standing calls from wastewater utilities, lawmakers and the White House for more infrastructure funding.

Groups Seek IG Scrutiny Of EPA Refusal Of NASA's Post-Harvey Monitoring

March 11, 2019

Environmental groups in Texas are planning to urge EPA's Office of Inspector General (IG) to consider EPA and Texas state regulators' refusal of a NASA pollution monitoring flight after Hurricane Harvey as part of the IG's ongoing investigation of regulators' handling of air quality monitoring data after the August 2017 storm.

"There's no question that we will ensure that this new information finds its way into the investigation" that EPA's IG is currently conducting of the agency's handling of air monitoring data after the storm, Adrian Shelley, director of Public Citizen's Texas office, tells *Inside EPA*.

He says that agency officials told advocates after the storm they lacked sufficient equipment to conduct as extensive monitoring as they would have liked so a recent report that EPA and the Texas Commission Environmental Quality (TCEQ) declined NASA's offer of assistance in conducting air pollution monitoring is "alarming."

"We missed out an opportunity for some [additional] data after the storm because of TCEQ and EPA," Shelley said, adding that environmental groups conducted some pollution monitoring at their own expense. "That [regulators] were turning down offers of free help is alarming to us and they have some explaining to do."

And in a March 6 statement on its website, Public Citizen also calls on the Texas legislature to investigate the incident. "This willful negligence and head-in-the-sand approach to environmental protection at both the state and federal level poses a direct threat to public health," Shelley says in the statement.

"Both EPA and TCEQ officials must be held accountable for this inexplicable decision in the face of a grave public health threat. We call on the Texas Legislature to investigate who prevented NASA from collecting this crucial data and how to prevent a recurrence."

Environmentalists' push for IG consideration of EPA's refusal of the NASA offer appears slated to add to significant scrutiny on the agency's response to Hurricane Harvey.

The storm has long been a flash point for opponents of the Trump administration's effort to roll back an Obama-era rule updating EPA's facility safety program after floodwaters from the storm led to a fire at a chemical plant and release of toxic substances. EPA is expected to finalize a rule rolling back aspects of its facility safety program early this year.

For example, the City of Houston in September lodged critical comments on EPA's May 17 proposed rule curtailing the Obama EPA's January 2017 update to the agency's Risk Management Plan (RMP) rule, arguing that flooding from Hurricane Harvey led to releases from chemical facilities that endangered first responders.

House Democrats are also querying EPA's refusal of NASA's assistance.

In letters sent last week to EPA Administrator Andrew Wheeler, Science Advisory Board Chairman Michael Honeycutt and NASA Administrator Jim Bridenstine, Democratic leaders of the House science committee sought answers and documents on why EPA and Texas turned down NASA's help.

EPA's IG this summer launched an investigation of how EPA and Texas handled air quality monitoring during the storm that prompted temporary shutdowns of monitoring and a slew of temporary exemptions from environmental regulations issued by the state and EPA.

In a letter to EPA air policy chief William Wehrum and other agency officials, the IG's air directorate chief James Hatfield says that the IG "plans to begin preliminary research to determine whether the EPA's and the state of Texas' air quality monitoring and related activities after Hurricane Harvey (1) addressed potential high-risk areas, (2) indicated any potential health concerns, and (3) were accurately communicated to the public with respect to monitoring results and potential health concerns."

More Critical Look

Shelley told *Inside EPA* in a previous, Jan. 11 interview, that IG investigators had already interviewed multiple Texas environmentalists as part of its review, and said advocates expect that the IG's report will take a more critical look at regulators' response to Hurricane Harvey than state officials have.

EPA's IG is also conducting a parallel review of the agency's management of disaster relief funds in its response to Hurricane Harvey.

In a [Sept. 18 letter](#) to EPA program officials, IG signaled that it would seek data from EPA's Office of Land and Emergency Management, which is directly responsible for emergency responses and cleanup, as well as Regions 4 and 6, the Office of the Administrator and Office of Administration and Resources Management.

Region 6 covers Arkansas, Louisiana, New Mexico, Oklahoma and Texas, while Region 4 is responsible for Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

According to the letter, that review is designed "to determine whether the EPA, in its emergency response to Hurricane Harvey, effectively managed the Disaster Relief Funding received from the Federal Emergency Management Agency."

The latest controversy stems from a [March 5 Los Angeles Times article](#), which revealed that in the wake of Harvey, EPA and Texas officials told NASA not to fly an airplane full of air pollution sensors over Houston.

"EPA and state officials argued that NASA's data would cause 'confusion' and might 'overlap' with their own analysis -- which was showing only a few, isolated spots of concern," the article says.

An EPA spokesman has told the paper that TCEQ officials decided to reject the NASA flight.

NASA was preparing for such a mission and had flown similar missions following major environmental disasters such as the BP Deepwater Horizon oil spill, the *Times* reports. -- *Dave Reynolds* (dreynolds@iwpnews.com)

Trump's FY20 Plan Would Slash EPA's Budget By 25 Percent, Cut State Grants

March 11, 2019

President Donald Trump's fiscal year 2020 budget request would slash \$2 billion, or 25 percent, from EPA's current \$8.1 billion appropriation, leaving the agency with \$6.1 billion, terminating a host of voluntary and "lower-priority" programs and cutting funding for states even as the agency aims to give them more responsibility under its "cooperative federalism" agenda.

[The budget request](#), released March 11, is unlikely to gain any traction in the Democratic-led House, and some Republicans are likely to push back on specific proposals -- such as the plan to cut \$1.4 billion from state grants, which would bring the program down from the current \$4.2 billion to \$2.7 billion.

Release of the budget, as well as an EPA-specific "[budget in brief](#)," shifts attention to Congress, where both chambers' appropriations panels will hold hearings and craft their own FY20 plans.

Many Democrats and environmental groups have already released statements on Trump's FY20 plan saying it will never become law, and GOP lawmakers have resisted prior calls for such massive cuts to the agency. For example, during debate over EPA's FY18 plan, Rep. Tom Cole (R-OK) told then-Administrator Scott Pruitt that [Congress would not approve](#) a proposed 31 percent cut to EPA's budget. "I can assure you, you are going to be the first EPA administrator that has come before this committee in eight years that actually gets more money than they asked for," he said.

Nevertheless, the budget proposal offers an outline of the Trump administration's priorities for EPA during the coming fiscal year that starts Oct. 1, as well as the programs the president wants to eliminate.

The FY20 funding cuts at EPA are part of a previously signaled White House plan to reduce discretionary spending by 5 percent overall. On a March 11 call with reporters, a senior administration official said the 5 percent is not level across all agencies as first indicated and was instead spread across specific agencies and programs including EPA -- explaining the massive proposed 25 percent cut to the agency rather than 5 percent.

The \$1.4 billion funding drop includes reductions to both categorical grants, from \$1 billion to \$580 million, and state revolving funds that support water infrastructure projects, from \$2.8 billion down to \$1.9 billion. The push for those reductions comes amid officials' focus on cooperative federalism in EPA's work, which states have generally welcomed but with the caveat that they still need federal funding and other assistance to carry their burdens.

"We do ask states to step up and to perform some of the activities that they should also be contributing towards. We eliminate most of the regional economic programs," the senior administration official said.

Accounts that support EPA's own regulatory and enforcement work are also targeted for major cuts. The science and technology account would drop by \$250 million, from \$713 million to \$463 million; and the environmental programs and management account, which covers most of the agency's regulatory activity, is slated for a \$798 million cut from \$2.6 billion to \$1.8 billion.

Further, the budget document says the administration "proposes to eliminate many voluntary and lower-priority activities and refocus the Agency on strategic and regulatory reforms" such as rollbacks of Obama-era water, air, climate and other policies. The list of activities slated for elimination in the budget-in-brief runs for six pages and includes many that enjoy bipartisan support, such as geographic pollution-control programs and Clean Water Act (CWA) section 319 grants for states' work to control nonpoint-source pollution.

Bipartisan Opposition

But in a sign of the bipartisan opposition the administration faces, lawmakers are already signaling they plan to fight many of the proposed cuts.

For example, the administration's FY20 plan comes less than a week after Reps. Angie Mead (D-MN) and Brian Mast (R-FL) introduced H.R. 1331, a bill that would reauthorize the same CWA section 319 grants being targeted for elimination in the budget request.

House and Senate Democrats are also pushing back against the White House's proposal more directly. Rep. Nita Lowey (D-NY), chair of the chamber's full appropriations committee, called Trump's FY20 request "even more untethered from reality than his past two" in a statement shortly after its release and warned that the new document "has no chance of garnering the necessary bipartisan support to become law."

The administration's FY18 and FY19 requests, which sought EPA budgets of \$5.7 billion and \$6.1 billion respectively, never became law despite Congress being fully under Republican control in those years; Republicans instead sought

much more modest cuts to the agency's funding, and ended up passing continuing resolutions that have held its budget steady at levels first established in the Obama administration.

Lowey continued, "In order for us to complete an orderly and responsible fiscal year 2020 appropriations process, Congress and the President must quickly agree on a framework that raises caps for defense and non-defense investments alike."

That could be a stumbling block for bicameral negotiations; during the March 11 call, the administration official said the White House hopes to avoid the bipartisan practice of matching defense spending hikes with an equal boost to non-defense spending.

"We are signaling in this budget that the old paradigm of a dollar increase in non-defense spending for every dollar increase in defense spending is no longer affordable for our country," the official said.

Meanwhile, Sen. Chris Van Hollen (D-MD), a member of the upper chamber's budget and appropriations panels, said in his own statement that "[t]his budget makes it clearer than ever where [Trump's] priorities lie -- in protecting millionaires and billionaires while cutting investments in health care, education, and the environment."

And the Natural Resources Defense Council is touting the Democratic opposition to Trump's request, with John Bowman, the group's acting government affairs director, saying in a March 11 statement, "President Trump's priorities remain dead-wrong --and they would be dangerous if enacted. Selling out our kids' health and our public lands to corporate polluters is not what the American people want or need. Thankfully, this budget proposal is DOA." -- *David LaRoss* (dlaross@jwpnews.com)

Bloomberg Environment

Trump Seeks 31 Percent Cut to EPA Funding Levels

<https://news.bloombergenvironment.com/environment-and-energy/trump-seeks-31-percent-cut-to-epa-funding-levels>

Abby Smith

Posted: 12:04pm, March 11, 2019

Budget proposal seeks \$6.1 billion for EPA, in line with last year's request

First budget Trump proposes under divided Congress

The Trump White House is again seeking to sharply reduce the EPA's budget, an opening offer that Congress isn't likely to follow but signals the administration's continued desire to shrink the agency.

The administration's [request](#), the broad strokes of which were released March 11, would seek \$6.1 billion for the Environmental Protection Agency in fiscal year 2020, a cut of more than 2 billion or 31 percent compared with the estimated \$8.8 billion in fiscal year 2019.

That estimate doesn't reflect the recent budget bill enacted by Congress in February to end the partial government shutdown, which closed the EPA for several weeks.

The move is consistent with the Trump administration's prior budget requests for the EPA. For its request for the prior fiscal year, the White House proposed a similar funding level for the EPA, of \$6.15 billion.

But Congress hasn't matched those cuts, and it's unlikely to do so this year. The fiscal year 2020 budget is the first the Trump administration is putting forth before a divided Congress.

Enacted Levels

The requested cut for fiscal year 2020 may not be as large when compared to enacted fiscal year 2019 levels. The EPA received \$8.058 billion under the appropriations bill Congress passed in February, according to a conference report for the legislation.

The Trump budget proposal would cut the EPA's budget roughly 24 percent below that funding level.

The budget proposal also asks for new user fees to fund the EPA's ENERGY STAR program, which helps consumers save energy through efficient appliances, saving the government \$460 million over the next decade.

—With assistance from Tiffany Stecker.

E&E News

Trump to propose deep cuts, more border wall spending

<https://www.eenews.net/eedaily/stories/1060126889>

George Cahlink

Posted: March 11, 2019

President Trump will propose today a fiscal 2020 budget that will seek deep cuts for energy and environmental programs and renew a border wall funding fight that sparked a lengthy government shutdown earlier this year.

The Office of Budget and Management is expected to release the broad outlines of its spending plan at 11:30 a.m.; more specific agency details are expected to come out during the next week.

Acting OMB chief Russ Vought and Treasury Secretary Steven Mnuchin will defend the request at hearings in both chambers this week.

OMB officials have said the budget request would mandate at least a 5 percent spending cut for all domestic programs, including those at EPA, the Energy Department and land agencies. The reductions would be a way to pay for increased national security spending without forcing an overall funding hike.

"This budget includes \$2.7 trillion in spending cuts — higher than any other administration in history," said Vought. "This is a clear road map for a more fiscally responsible future if Congress chooses to follow it." Vought said the reductions in domestic accounts would allow the budget to balance in 15 years by 2034.

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Lawmakers from both parties believe the budget has as much chance of being enacted as the Green New Deal in a sharply divided Capitol Hill. Instead, it's viewed as a messaging document aimed at the conservative base that favors military spending but has less appetite for many domestic programs.

"Cutting 5 percent of all the other programs will be hard," said Senate Appropriations Chairman Richard Shelby (R-Ala.) last week, noting it would be an especially tough sell in the House with Democrats in control for the first time in eight years.

Similarly, House Budget Chairman John Yarmuth (D-Ky.) has said those spending cuts are "unrealistic" and have no chance of being enacted.

Lawmakers from both parties say they will need to find some common ground with sequester spending caps, delayed for the past two years, set to kick in for fiscal 2020. Those reductions would lower domestic accounts by an additional 9 percent.

Appropriators in both chambers and parties have said they are eager to avert the sequester by agreeing to another two-year deal to raise both domestic and defense accounts. They say, though, that the accord won't be easy and might not come until the new fiscal year begins Oct 1.

The White House said when it agreed to the last budget deal in 2017 that it would not back any future increases in domestic spending.

Few of the administration's fiscal 2020 budget details have been released, although EPA's climate programs and federal energy research are expected to be targeted again for severe cuts.

The request also could renew familiar calls for selling off federally owned Western power assets and federal land and tapping more of the Strategic Petroleum Reserve to increase revenue.

The White House would seek billions more for building the U.S.-Mexico border wall. Trump's recent push for more border wall funding sparked a 35-day government shutdown and forced him to declare a national emergency to try to secure the wall's funds that Congress would not provide.

In a joint statement yesterday, House Speaker Nancy Pelosi (D-Calif.) and Senate Minority Leader Chuck Schumer (D-N.Y.) said lawmakers won't support the latest wall funding request from Trump.

"The same thing will repeat itself if he tries this again. We hope he learned his lesson," the Democratic leaders said.

Congress has already scheduled several hearings this week focusing on oversight of agency spending and the fiscal 2020 request.

Schedule: The hearing of the House State and Foreign Operations Appropriations Subcommittee is Tuesday, March 12, at 10 a.m. in 2008 Rayburn.

Witnesses: TBA.

Schedule: The hearing of the House Budget Committee is Tuesday, March 12, at 10 a.m. in 210 Cannon.

Witness: Acting Office of Management and Budget Director Russ Vought.

Schedule: The hearing of the Senate Budget Committee is Wednesday, March 13, at 2:30 p.m. in 608 Dirksen.

Witness: Vought.

Schedule: The hearing of the Senate Defense Appropriations Subcommittee is Wednesday, March 13, at 10 a.m. in 192 Dirksen.

Witness: Gen. David Goldfein, Air Force chief of staff.

Schedule: The hearing of the House Ways and Means Committee is Thursday, March 14, at 9 a.m. in 1100 Longworth.

Witness: Treasury Secretary Steven Mnuchin.

Schedule: The hearing of the Senate Finance Committee is Thursday, March 14, at 1:30 p.m. in 215 Dirksen.

Witness: Mnuchin.

Reporter Nick Sobczyk contributed.

E&E News

Trump's \$4.7T plan slashes energy, environment programs

<https://www.eenews.net/greenwire/2019/03/11/stories/1060126949>

George Cahlink

Posted: March 11, 2019

The White House today outlined a \$4.7 trillion fiscal 2020 budget that would take an ax to many domestic programs, including at EPA and the Energy and Interior departments, to boost national security spending.

The budget pushes a 5 percent cut in nondefense discretionary spending accounts to \$543 billion. Defense spending would spike 5 percent to \$750 billion.

The decision means EPA would face a 31 percent cut over current spending, DOE an 11 percent reduction and Interior a 14 percent decrease, budget documents show.

"We have a real problem that is not a result of our economic policies," said a senior administration official this morning, pointing to soaring deficits.

Indeed, the administration projects a sea of red ink. The budget would not balance for 15 years. Typically, budget plans balance within a decade.

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The proposal also calls for spending \$8.6 billion to complete construction of the U.S.-Mexico border wall, a priority sure to reignite a funding dispute with Congress that sparked a 35-day shutdown earlier this year.

Additionally, the budget would renew the administration's call for \$200 billion in infrastructure spending that, combined with private sector and local financing, would amount to \$1 trillion for a wide range of projects.

The infrastructure plan is less specific than last year's, in part to allow Congress to offer up its own suggestions.

The White House released only the broad outlines of its spending plans for agencies today; the more detailed appendix with line-item listings for each agency will be out next week.

Agency specifics

The administration official said the \$6.1 billion proposed for EPA — down from \$8.8 billion — would mean "substantial reductions" for the agency, while allowing the regulator to still meet its overarching missions of clean air and clear water and other environmental protection (*see related story*).

The official suggested some of the largest cuts would come by asking states and local governments to take over the agency's regional economic programs.

"Focusing on the core mission makes EPA a better steward of taxpayer dollars and promotes operational efficiencies that enhance the Agency's performance," the agency's budget summary states.

It says funding priorities will be reviewing and revising regulations, streamlining permitting, and working with state and local partners.

DOE's \$31.7 billion request would prioritize modernizing its stockpile of nuclear weapons and investing in early research and development projects.

The administration seeks to again cut several technology loan programs and its Advanced Research Projects Agency-Energy (*see related story*).

Interior's \$12.5 billion request would be about a \$500 million cut, although some of those reductions would be the result of changes to mandatory programs in fiscal 2019.

An administration official said \$6.5 billion would be specifically marked for rebuilding and repairing infrastructure at national parks (*see related story*).

Meanwhile, the Agriculture Department's budget would boost funding for forest management to the highest levels yet, the administration said, including totals of \$450 million for hazardous fuels reduction and \$375 million for forest products, mainly from national forests.

A budget cap adjustment would provide \$2.25 billion for wildfire activities at the Forest Service and Interior, without the need to borrow funds from non-fire-related accounts. Fiscal 2020 will be the first year of a new wildfire funding arrangement approved by Congress.

Outlook

Lawmakers from both parties already are largely dismissing the budget, saying it stands little chance of advancing on a divided Capitol Hill. Even Republicans stopped short of endorsing it today.

"The president's annual budget proposal is the first step in the federal budget process and will allow us to consider how his priorities align with the priorities of Congress," said Senate Budget Chairman Mike Enzi (R-Wyo.).

"I look forward to working with my colleagues and the president to curb federal overspending and help bring our deficits and debt under control," he added.

A senior administration official stressed the budget meets strict spending caps for next year that Congress mandated under the Budget Control Act. The official stressed the White House is open to other ideas for meeting those sequester levels but said it's not affordable to do so by making equal increases in defense and domestic accounts.

"We have put forward one way to continue to rebuild the military. Congress may have another way," said the official. House and Senate Budget committee lawmakers will weigh in more on the request tomorrow, with acting Office of Management and Budget Director Russell Vought set to testify before both panels.

Reporter Marc Heller contributed.

Environmental Defense Fund

Trump Administration Chooses Once Again to Attack America's Health and Environment

<https://www.edf.org/media/trump-administration-chooses-once-again-attack-americas-health-and-environment>

Elizabeth Gore, EDF Senior Vice President

Posted: March 11, 2019

"It's clear that the Trump administration has not learned its lesson that America's health and environment are never to be put on the chopping block. The call for cuts of more than 30 percent to EPA's budget—as well as harmful cuts to the budgets of other agencies vital to protecting American families from the dangers of pollution, toxics, and climate change—should be dead on arrival in Congress.

"The administration's proposal doubles down on the radical, anti-protection stance that the White House has championed, to the detriment of the American people. The real world result of these cuts would be more asthma attacks, more heart problems, and more air pollution.

"EPA remains critically underfunded. In real dollars, its budget is even less than it was nearly 40 years ago, despite a large increase in responsibilities and major growth in our population and economy. That the agency must carry out its important responsibilities while being stretched so thin is an injustice to American communities at the front lines of pollution and global warming.

"EPA's budget should be increased at least as much as other agencies that protect the health and safety of the American people. EPA is, after all, an agency dedicated to ensuring the safety and well-being of American children and families everywhere."

Elizabeth Gore, Senior Vice President, Political Affairs

Detroit Free Press

Trump tries to slash Great Lakes funding again as EPA budget faces massive cuts

<https://www.freep.com/story/news/local/michigan/2019/03/11/president-donald-trump-great-lakes-funds-new-budget/3129234002/>

Todd Spangler

Posted: 12:57pm, March 11, 2019

WASHINGTON — President Donald Trump is apparently hoping the third time is the charm when it comes to cutting funds for the Great Lakes.

The Trump administration on Monday revealed some details of its \$4.7 trillion spending proposal for the next fiscal year and it included cutting \$270 million from the \$300 million Great Lakes Restoration Initiative.

It is the third year in a row that Trump has proposed either eliminating or cutting most of the program, which is used on projects to restore wetlands and improve water quality in and around the Great Lakes.

Because the Great Lakes initiative is popular with legislators of both parties across the Upper Midwest, efforts to slash the funds have fallen flat in Congress and are expected to do so again.

In fact, Trump's entire budget is considered to be more of a wish list than a sincere policy proposal, including as it does deep cuts to social programs at a time when Democrats control the U.S. House, and requesting some \$8.6 billion more for a border wall already rejected by Congress.

U.S. Rep. Bill Huizenga, R-Zeeland, said that while he supports many of Trump's proposal that "it fails to properly fund the Great Lakes Restoration Initiative."

"I will continue to work with both Republicans and Democrats to fully fund the GLRI and protect both the economy and the ecology of the Great Lakes," said Huizenga, who is co-chair of the congressional Great Lakes Task Force.

Where in past years, the Trump administration has tried to make the case for deep cuts in programs like the Great Lakes Restoration Initiative, it did not do so on Monday, with the cut simply buried as a line item in a budget release by the Environmental Protection Agency.

Overall, the administration hopes to cut the EPA by nearly \$3 billion, or more than 30 percent of its current budget.

The Hill

Trump proposes slashing EPA budget by 31 percent

<https://thehill.com/policy/energy-environment/433496-white-house-proposes-dramatic-cuts-to-energy-and-environment>

Miranda Green

Posted: 12:26pm, March 11, 2019

President Trump on Monday proposed significant budget cuts to the government agencies responsible for overseeing the nation's energy and environmental policies, including a 31 percent reduction in spending at the Environmental Protection Agency (EPA).

The fiscal 2020 budget proposal to Congress marks the latest effort by the administration to slash funding for science and enforcement programs.

The document, titled "A Budget for a Better America," requests \$31.7 billion for the Department of Energy, an 11 percent decrease from current funding, while the Interior Department would see a 14 percent cut, to \$12.5 billion.

The biggest proposed cuts among the three major energy and environment agencies would take place at the EPA, where former energy lobbyist Andrew Wheeler recently took over as the top administrator after being confirmed by the Senate.

The budget for the agency tasked with enforcing environmental regulations would plummet to \$6.1 billion, a decrease of 31 percent, under the White House spending blueprint.

"This commonsense budget proposal would support the agency as it continues to work with states, tribes and local governments to protect human health and the environment," Wheeler said in a statement Monday. "I am proud of the tremendous progress that EPA and its partners have made in cleaning our nation's air, water and land, and I am looking forward to continuing this progress through FY 2020."

"Focusing on the core mission makes EPA a better steward of taxpayer dollars and promotes operational efficiencies that enhance the Agency's Performance," the White House added in its request to Congress.

Overall, the administration proposes eliminating more than \$650 million in programs and activities compared to current funding levels.

The proposed reductions at EPA are in line with the steep cuts — about 25 percent — that the White House's Office of Management and Budget proposed for the agency for fiscal 2019, which began Oct. 1. The year before that, the administration proposed cuts that exceeded 30 percent.

Lawmakers have declined to enact most of Trump's previous funding requests, and it's unlikely that drastic EPA cuts will be enacted by Congress this year, especially since Democrats are now in the majority in the House.

Trump promised on the campaign trail to cut back on enforcement actions at places like the EPA that often hurt the bottom line of the fossil fuel industry and especially coal-fired plants.

The administration's budget proposal for EPA highlights increased water infrastructure projects and efforts to remediate Superfund sites. The agency pointed to a "redundancy" in funding as one of its reasons for the proposed budget cuts.

"A priority area for EPA is to create consistency and certainty for the regulated community and to remove unnecessary or redundant regulations," the agency wrote in its budget brief. "Removing unnecessary regulatory burdens allows the EPA to be a catalyst for economic growth while strengthening our focus on protecting human health and the environment."

The White House budget request also seeks to slash other key science and renewable areas, including a repeal of the tax credit for electric vehicles. Other cuts to the Department of Energy include well-known clean energy research and development grant programs such as ARPA-E.

The National Oceanic and Atmospheric Administration, which is responsible for monitoring weather systems and oceanic temperatures, would see its funding cut under Trump's proposed budget, with the recommended elimination of the Sea Grant, Coastal Zone Management Grants and Pacific Coastal Salmon Recovery Fund.

Updated at 1:24 p.m.

Inside EPA

Trump's FY20 Plan Would Slash EPA's Budget By 25 Percent, Cut State Grants

<https://insideepa.com/daily-news/trump%E2%80%99s-fy20-plan-would-slash-epa%E2%80%99s-budget-25-percent-cut-state-grants>

David LaRoss

Posted: March 11, 2019

President Donald Trump's fiscal year 2020 budget request would slash \$2 billion, or 25 percent, from EPA's current \$8.1 billion appropriation, leaving the agency with \$6.1 billion, terminating a host of voluntary and "lower-priority" programs and cutting funding for states even as the agency aims to give them more responsibility under its "cooperative federalism" agenda.

The budget request, released March 11, is unlikely to gain any traction in the Democratic-led House, and some Republicans are likely to push back on specific proposals -- such as the plan to cut \$1.4 billion from state grants, which would bring the program down from the current \$4.2 billion to \$2.7 billion.

Release of the budget, as well as an EPA-specific "budget in brief," shifts attention to Congress, where both chambers' appropriations panels will hold hearings and craft their own FY20 plans.

Many Democrats and environmental groups have already released statements on Trump's FY20 plan saying it will never become law, and GOP lawmakers have resisted prior calls for such massive cuts to the agency. For example, during debate over EPA's FY18 plan, Rep. Tom Cole (R-OK) told then-Administrator Scott Pruitt that Congress would not approve a proposed 31 percent cut to EPA's budget. "I can assure you, you are going to be the first EPA administrator that has come before this committee in eight years that actually gets more money than they asked for," he said.

Nevertheless, the budget proposal offers an outline of the Trump administration's priorities for EPA during the coming fiscal year that starts Oct. 1, as well as the programs the president wants to eliminate.

The FY20 funding cuts at EPA are part of a previously signaled White House plan to reduce discretionary spending by 5 percent overall. On a March 11 call with reporters, a senior administration official said the 5 percent is not level across all agencies as first indicated and was instead spread across specific agencies and programs including EPA -- explaining the massive proposed 25 percent cut to the agency rather than 5 percent.

The \$1.4 billion funding drop includes reductions to both categorical grants, from \$1 billion to \$580 million, and state revolving funds that support water infrastructure projects, from \$2.8 billion down to \$1.9 billion. The push for those reductions comes amid officials' focus on cooperative federalism in EPA's work, which states have generally welcomed but with the caveat that they still need federal funding and other assistance to carry their burdens.

"We do ask states to step up and to perform some of the activities that they should also be contributing towards. We eliminate most of the regional economic programs," the senior administration official said.

Accounts that support EPA's own regulatory and enforcement work are also targeted for major cuts. The science and technology account would drop by \$250 million, from \$713 million to \$463 million; and the environmental programs and management account, which covers most of the agency's regulatory activity, is slated for a \$798 million cut from \$2.6 billion to \$1.8 billion.

Further, the budget document says the administration "proposes to eliminate many voluntary and lower-priority activities and refocus the Agency on strategic and regulatory reforms" such as rollbacks of Obama-era water, air, climate and other policies. The list of activities slated for elimination in the budget-in-brief runs for six pages and includes many that enjoy bipartisan support, such as geographic pollution-control programs and Clean Water Act (CWA) section 319 grants for states' work to control nonpoint-source pollution.

Bipartisan Opposition

But in a sign of the bipartisan opposition the administration faces, lawmakers are already signaling they plan to fight many of the proposed cuts.

For example, the administration's FY20 plan comes less than a week after Reps. Angie Mead (D-MN) and Brian Mast (R-FL) introduced [H.R. 1331](#), a bill that would reauthorize the same CWA section 319 grants being targeted for elimination in the budget request.

House and Senate Democrats are also pushing back against the White House's proposal more directly. Rep. Nita Lowey (D-NY), chair of the chamber's full appropriations committee, called Trump's FY20 request "even more untethered from reality than his past two" in a statement shortly after its release and warned that the new document "has no chance of garnering the necessary bipartisan support to become law."

The administration's FY18 and FY19 requests, which sought EPA budgets of \$5.7 billion and \$6.1 billion respectively, never became law despite Congress being fully under Republican control in those years; Republicans instead sought much more modest cuts to the agency's funding, and ended up passing continuing resolutions that have held its budget steady at levels first established in the Obama administration.

Lowey continued, "In order for us to complete an orderly and responsible fiscal year 2020 appropriations process, Congress and the President must quickly agree on a framework that raises caps for defense and non-defense investments alike."

That could be a stumbling block for bicameral negotiations; during the March 11 call, the administration official said the White House hopes to avoid the bipartisan practice of matching defense spending hikes with an equal boost to non-defense spending.

"We are signaling in this budget that the old paradigm of a dollar increase in non-defense spending for every dollar increase in defense spending is no longer affordable for our country," the official said.

Meanwhile, Sen. Chris Van Hollen (D-MD), a member of the upper chamber's budget and appropriations panels, said in his own statement that "[t]his budget makes it clearer than ever where [Trump's] priorities lie -- in protecting millionaires and billionaires while cutting investments in health care, education, and the environment."

And the Natural Resources Defense Council is touting the Democratic opposition to Trump's request, with John Bowman, the group's acting government affairs director, saying in a March 11 statement, "President Trump's priorities remain dead-wrong --and they would be dangerous if enacted. Selling out our kids' health and our public lands to corporate polluters is not what the American people want or need. Thankfully, this budget proposal is DOA." -- *David LaRoss* (dlaross@jwpnews.com)

Washington Examiner

Trump budget diverts spending away from EPA and renewables toward border wall

<https://www.washingtonexaminer.com/policy/energy/trump-budget-diverts-spending-away-from-epa-and-renewables-toward-border-wall>

John Siciliano and Josh Siegel

Posted: 12:02pm, March 11, 2019

President Trump's fiscal 2020 budget blueprint released on Monday takes a knife to spending on renewable energy at the Energy Department while gutting the Environmental Protection Agency, and doubling spending for a U.S.-Mexico border wall.

The Trump budget proposes over \$12 trillion in agency cuts, with a nice clean 5 percent cut in domestic spending, with EPA sustaining a 31 percent cut if the president gets his way — the largest across-the-board slashing for any agency in the new spending request.

The Department of Energy's Energy Efficiency and Renewable Energy Office will see its fiscal 2020 budget gutted by 70 percent, from \$2.3 billion to around \$700 million.

The [budget](#) also proposes \$8.6 billion in new funding for Trump's promised Mexican border wall and significantly raises Defense Department spending.

The Energy Department fiscal 2020 budget requests \$31.7 billion for the agency, which is a 11-percent decrease from the 2019 enacted level.

The budget document issued by the White House on Monday shows that part of the renewable energy office's priorities will be diverted to a new energy storage initiative. The budget requests \$158 million for the Advanced Energy Storage Initiative, which is described a coordinated effort jointly led by the Office of Electricity and the Office of Energy Efficiency and Renewable Energy.

The agency will place priorities on national security and energy security, with big boosts for nuclear and coal and cyber security.

EPA's total budget request is \$6.1 billion, which is a \$2.8 billion decrease from the fiscal 2019 estimate. The budget proposes to eliminate many voluntary and lower-priority activities and refocus the EPA on strategic and regulatory reforms such as reforming the Obama-era Waters of the United States rule. The administration considers the WOTUS rule a prime example of regulatory overreach by the previous administration. Another priority will be replacing the Obama-era Clean Power Plan climate rules with the Trump EPA's Affordable Clean Energy rule, which benefits coal-fired power plants. More detailed, line-by-line budgets from the agencies will come out on Wednesday, before being sent to Congress next week.

Arizona Daily Star

Rosemont go-ahead casts aside EPA fears over water

https://tucson.com/news/local/rosemont-go-ahead-casts-aside-epa-fears-over-water/article_cd26ecde-61c2-5b18-aad5-29780135ec07.html

Tony Davis

Posted: March 10, 2019

The federal government issued the final permit Friday allowing the Rosemont Mine to be built despite written EPA warnings that the mine will pollute surface water and shrink, if not dry up, two nationally important streams.

In its most recent memos on the mine, obtained by the Arizona Daily Star and not previously reported, the U.S. Environmental Protection Agency said Rosemont's construction will destroy or reduce the size of wetlands, pools and springs, will damage Cienega Creek and Davidson Canyon, and destroy or shrink riparian areas.

The EPA's regional office also warned that the mine's cutoff of stormwater flows into neighboring streams and its groundwater pumping will significantly degrade federally regulated water bodies.

The impacts will be contrary to the goals of the federal Clean Water Act, the EPA said, strongly implying the act itself would be violated.

Yet, the Army Corps of Engineers issued the mine's Clean Water Act permit Friday — the last of many federal and state permits needed to allow a Canadian company to dig a half-mile deep, mile-wide open pit in the Santa Rita Mountains southeast of Tucson. Hudbay Minerals Inc., the Toronto-based company that proposes the mine, strongly criticized the EPA's conclusions in its own letters to the Army Corps. It accused the EPA of exaggerating the mine's impacts on surface water and groundwater, particularly the pollution threat.

When the Corps issued the permit, it generally agreed with Hudbay that the mine probably won't pollute streams.

It also agreed with Hudbay that some of the EPA's other concerns lie outside the Corps' legal jurisdiction. These particularly include the longstanding issue of how lowering the aquifer under the mine to create the open pit will affect Cienega Creek.

And the Corps agreed with Hudbay's view that the mine's planned mitigation measures will prevent a reduction in stormwater flows into neighboring streams.

"REGIONALLY RARE" WATERS ARE AT RISK, EPA SAYS

The Star recently obtained the EPA's comments and Hudbay's responses from the Army Corps through the Freedom of Information Act.

The Clean Water Act permit will allow Hudbay to place dredged and fill materials into a number of washes at the mine site to make the mine's construction possible.

Under federal guidelines used to carry out the act, discharges of dredged or fill material into streams can't be allowed if they will cause or contribute to significant degradation of federally regulated water bodies, the EPA said in its memos. That's precisely what the agency says Rosemont's construction will do.

The two EPA memos, written in November 2017, are the most recent of eight reports, letters and memos the agency has written critical of the \$1.9 billion mine project since 2012.

"The Rosemont Mine will degrade and destroy waters in the Cienega Creek watershed containing regionally rare, largely intact mosaics of some of the highest quality stream and wetland ecosystems in Arizona," the EPA concluded in one memo. "These environmental consequences are substantial and unacceptable."

For years during the Obama administration, the EPA's regional office said it considered Rosemont a logical project to be elevated for additional review by the EPA and the Army Corps' Washington, D.C., staffs. But on Feb. 28, the EPA's regional administrator, Mike Stoker, told a lawyer for tribes opposed to the mine that the agency didn't plan to elevate the case to Washington.

Asked by the Star to explain that decision, the EPA replied Friday in an email that "based on the revised permit" details, its regional administrator "exercised his discretion not to elevate."

"HIGHLY SPECULATIVE," HUDBAY COUNTERS

Hudbay said the impacts forecast by the EPA were "highly speculative" and based in part on U.S. Forest Service and U.S. Fish and Wildlife Service reports that substantially overstated problems the mine would cause.

In reports written in February 2018, Hudbay accused the EPA of misrepresenting or exaggerating findings of the other agencies and of overstating the ecological value of washes radiating from the mine site.

Hudbay also accused the EPA of failing to acknowledge mitigation measures that the company designed to forestall the impacts the EPA predicted — measures that filled 100 pages in the Forest Service's final Rosemont environmental impact statement.

The company also said a separate set of mitigation measures that include buying a 1,500-acre ranch along Sonoita Creek in Santa Cruz County will compensate for the mine impacts.

Details of the EPA's findings and Hudbay's and the Corps' rebuttals:

1. Impacts of groundwater drawdown.

To create and maintain the mine's open pit, Hudbay will have to withdraw groundwater from the aquifer underlying the mine site throughout the mine's 20-year life.

The EPA, like the Forest Service, admits the computerized groundwater models that agencies have used to predict these withdrawals' impacts on neighboring streams can't determine how severe they'll be. That's because the expected decline in the aquifer from groundwater removal likely will be less than the five-foot minimum needed to make accurate predictions, the agencies say.

But even small changes in groundwater levels will have "profound adverse effects" on surface water flows and the shallow aquifer directly underneath, EPA's memo says. One reason is that wet areas of many Southwestern aquatic habitats, including those around Cienega Creek, are shallow and susceptible to drying from small changes in surface water depths due to declining aquifers, the EPA says.

"The vulnerability of springs, seeps, stream flows, wetlands and riparian areas in the study area to groundwater drawdown is great," the EPA said. "These aquatic habitats are regionally rare, small in area and fragmented, and are currently shrinking in response to the ongoing drought."

Again citing Forest Service reports, the EPA warned that the mine would, over time, change three miles of Empire Gulch, 20 miles of Cienega Creek and one mile of Gardner Canyon from intermittent or perennial streams to ephemeral ones that carry water mainly during floods. These impacts are more certain to occur at Empire Gulch than at the other streams, the EPA memo says.

In its response, Hudbay says EPA's reasoning is flawed, as are the reports upon which it relied.

The groundwater models used to make predictions upon which EPA relied found the mine's impacts across the entire Cienega Creek Basin are likely to be small and won't occur until far in the future, Hudbay says. But these analyses are so otherwise flawed that they greatly overstate impacts, the company says.

The company accuses the Forest Service of conducting a "simplistic" analysis to learn the worst possible impacts. The service inappropriately assumed that one foot of groundwater drawdown will trigger a one-foot reduction in Cienega Creek streamflow, for example, the company said.

The agencies' findings "ignore the dynamic interactions between precipitation, stormwater runoff, recharge, evapotranspiration, temperature, bedrock groundwater, alluvial groundwater and natural trends that influence streamflow," wrote Hudbay's consultant, Westland Resources.

2. Scope of analysis.

The Army Corps' 83-page Rosemont permit decision released Friday didn't look at this issue. It said the impacts of lowering the water table were outside the scope of the issues it is legally authorized to review under federal guidelines for considering permits. First, that's because the activity the Corps can control — the discharge of fill and dredged material into washes on the mine site — will be finished before Hudbay digs out the mine pit, 2,900 feet deep, the decision said.

Similarly, while the mine's waste rock and tailings will be dumped into much of the area where Hudbay discharges the dredged and fill material, the discharges will be the result of land clearing on the site — not from putting waste rock on it. So the mine's operations, like the tailings and waste rock disposal, also can't be analyzed for the Corps permit, the agency said.

Stu Gillespie, an attorney for three Indian tribes who oppose the mine, sharply criticized the Corps' view.

"What they are saying is that Hudbay is going to fill these washes ... eliminate those washes, but at the same time, saying we have no obligation to regulate the activities that will occur on top of those washes," he said.

"It's almost an invitation to developers to do whatever they want, and the Corps will turn a blind eye," said Gillespie, who said he expects the Tohono O'Odham and two other tribes will raise the issue in an upcoming lawsuit challenging the permit.

3. Water pollution.

The mine will convert washes such as Barrel Canyon at the head of the Cienega Creek Basin into pollution sources, the EPA said. Heavy metals will run off the mine and degrade the quality of Cienega and Davidson Canyon downstream, it said.

In general, the water quality of the expected mine runoff is worse than the quality of creeks downstream, the EPA said. While the Forest Service has speculated that the mine's contamination load will slacken as it travels downstream, the EPA disagreed.

"In fact, contaminated mine runoff is additive, increasing concentrations of heavy metals to existing downstream waters and worsening water quality," it said.

Based on the EPA's analysis of water quality data, "stormwater runoff from the mine's waste rock and soil cover contaminated with lead, mercury, molybdenum, selenium, silver, sodium and sulfate will degrade the water quality of Barrel Canyon, Davidson Canyon and Cienega Creek," the agency said.

The state calls Davidson and Cienega "Outstanding Arizona Waters" that legally can't be polluted.

But the EPA's warnings aren't supported by findings from the Arizona Department of Environmental Quality, Huidbay said. ADEQ has certified that if Rosemont sticks to the various conditions and mitigation measures the state has imposed, the mine "will not cause or contribute to exceedances of surface water quality standards," Huidbay said.

Nor will it degrade Davidson or Cienega's water quality, ADEQ concluded.

The EPA's "speculative" warnings also don't recognize requirements of ADEQ's formal pollution discharge permitting system, Huidbay added. It requires the mine to meet conditions of a general industrial permit, containing specific standards for what's discharged and monitoring requirements.

Huidbay also noted that the Forest Service's Rosemont environmental impact statement predicted that the water quality in runoff from the mine's tailings and waste rock isn't expected to degrade the quality of surface water downstream. The Forest Service predicted dissolved silver is the only metal for which runoff would exceed water-quality standards, and ADEQ foresaw little likelihood of that happening.

In the Corps' decision Friday, it said downstream pollution can be prevented by requirements it will place in its permit for Huidbay to conduct the best possible management of pollution risks, do erosion control and comply with state requirements. Also, because the mine site occupies only 13 percent of the entire Davidson Canyon watershed, "it is not appropriate" to assume a direct link between runoff from the site and Davidson's water quality, the Corps said.

4. Surface water reductions.

The mine's presence will reduce stormwater discharges into Barrel and Davidson Canyon and Cienega Creek, causing huge problems for trees, shrubs and wildlife living downstream, the EPA said.

The causes will be the direct fill of washes on the mine site and modification of stormwater flows by the construction of basins and diversions designed to retain, slow or convey storm water around mine areas, the EPA said.

During the mine's 20- to 25-year life, it will slash stormwater runoff by more than 30 to 40 percent, which will reduce streamflow by at least 7 to 10 percent at the confluence of Davidson and Cienega, EPA said, based on Forest Service estimates.

"Even small statistical changes in low-water surface flows of a few percent will cause or contribute to significant degradation of the aquatic ecosystem through loss of aquatic habitat and declines in water quality," the EPA said.

The cutoff of stormwater at the mine site can also reduce shallow, underground water flows into the creeks, the EPA said.

Those reduced flows will in turn decrease the size and depth of existing pools in the two creeks, significantly reducing the amount of surface water available for fish and insects, including the endangered Gila chub and Gila topminnow at the Cienega-Davidson confluence, the EPA said.

Huidbay, however, says the estimated 30 to 40 percent streamflow reduction was merely an extrapolation of data done by a Forest Service consultant. While EPA believes the Forest Service's predictions of stormwater runoff were too low, Huidbay says it has documented that the predictions are too high.

It also says its planned mitigation measures, which include removal of four downstream livestock watering tanks from the site, "will more than offset any reductions in downstream flows."

The Army Corps' decision Friday agreed with Huidbay, saying the Corps has determined the removal of the tanks is needed to compensate for potential loss of streamflow due to the mine.

The Corps also noted that the mine site covers only 13 percent of the entire watershed feeding Davidson Canyon downstream.

Because of that, "it is not appropriate to infer a direct correlation" between mine runoff and Davidson Canyon's water quality, the Corps said.

Bloomberg Environment

Administration Drops Effort to Delay Obama's Waters Rule

<https://news.bloombergenvironment.com/environment-and-energy/administration-drops-effort-to-delay-obamas-waters-rule>

David Schultz

Posted: 5:41pm, March 9, 2019

Move to delay effectiveness of WOTUS rule had been invalidated by lower court

Trump administration signals regulation to repeal rule may be imminent

The Trump administration has abandoned its bid to use the courts to delay the implementation of a landmark Obama-era policy protecting wetlands and waterways. But the legal action may merely be a prelude to regulatory steps that would have the same effect.

Last year, the administration attempted to pause for two years the so-called Waters of the U.S. rule, or WOTUS. But this effort was rejected by several district court judges, who ruled that the administration did not follow proper procedures to suspend the implementation of an existing regulation.

The Trump administration appealed, but on March 8 announced it would drop its challenges in two federal appeals courts—the 4th and 9th circuits.

This means the WOTUS rule—which redefines which bodies of water are regulated by federal anti-pollution laws— will remain in effect for the foreseeable future in more than 20 states across the country. The rule is blocked from taking effect in many other states by prior legal rulings.

Repeal Coming Soon?

But the March 8 announcement may not spell victory for fans of the WOTUS rule, including environmentalists who applauded the Obama administration's broader definition of what counts as a federal waterway.

The Trump administration has been working for months on a new regulatory action that would repeal the WOTUS rule permanently (RIN: 2040-AF74). This repeal is scheduled to take effect later this month, according to the website of the White House Office of Management and Budget.

"Rather than continuing to litigate, the agencies have decided to focus on the rulemaking actions underway," Molly Block, a spokeswoman with the Environmental Protection Agency told Bloomberg Environment in an email March 9. The dropped appeals court cases are S.C. Coastal Conserv. League v. Wheeler, 4th Cir., No. 18-01988, motion to dismiss, 3/8/19 and Puget Soundkeeper All. v. Wheeler, 9th Cir., No. 19-35074, motion to dismiss, 3/8/19.

Concrete News

EPA taps public, private channel toward Water Reuse Action Plan

<http://concreteproducts.com/news/11595-epa-taps-public-private-channel-toward-water-reuse-action-plan.html#.XIZ9R-ZILIU>

Staff

Posted: 8:12am, March 11, 2019

A new EPA initiative aims to leverage industry and government expertise to ensure the effective use of the nation's water resources. "[They] are the lifeblood of our communities, and the federal government has the responsibility to ensure all Americans have access to reliable sources of clean and safe water," says Assistant Administrator for Water David Ross. "There is innovative work happening across the sector to advance water reuse, and the EPA wants to accelerate that work through coordinated federal leadership."

The Water Reuse Action Plan will seek to foster recycling as an important component of integrated water resource management. EPA will facilitate discussions among federal, state, and water sector stakeholders and form new partnerships to develop and deploy the plan. A draft of the plan is scheduled for release and public review in September at the Annual WaterReuse Symposium in San Diego. Agency actions are part of a larger effort by the Trump Administration to better coordinate and focus taxpayer resources on some of the nation's most challenging water resource concerns, including ensuring water availability and mitigating the risks posed by droughts. EPA will work with the U.S. Departments of the Interior and Agriculture, plus other federal partners to collaboratively address water supply, resiliency, and other resource management priorities.

"Communities across the country are facing water shortages, and it is the role of the federal government to ensure that all have reliable access to the water needed to protect human health and maintain our robust economy," notes Interior Assistant Secretary for Water and Science Tim Petty.

EPA has previously supported water reuse efforts, including development of the 2017 Potable Reuse Compendium and Guidelines for Water Reuse, but the Water Reuse Action Plan is the first initiative of this magnitude that is coordinated across the sector. Ongoing efforts by other federal agencies, such as the U.S. Department of Energy's Grand Water Security Challenge, and by various non-governmental organizations dedicated to water resources management, will be coordinated as part of the overarching strategy to advance water reuse. EPA has posted additional Water Reuse Action Plan information [here](#).

Inside EPA

EPA Braces For Potential Litigation Over Massive Portland Harbor Cleanup

<https://insideepa.com/daily-news/epa-braces-potential-litigation-over-massive-portland-harbor-cleanup>

Suzanne Yohannan

Posted: March 11, 2019

EPA Administrator Andrew Wheeler recently gave Oregon Gov. Kate Brown (D) assurances that the agency plans to press ahead on the \$1 billion cleanup of the high-profile Portland Harbor Superfund site but cautioned it could face challenges after EPA recently weakened the cleanup plan to account for eased risk values for a chemical contaminant there. Such a challenge would likely be procedural, given the Superfund law's section 113(h) generally bars parties from challenging a cleanup plan until after it has been completed.

In a Feb. 24 meeting in Washington, DC, Brown pressed for EPA to get on with the cleanup, according to a Brown spokeswoman.

Key among the points the governor raised was that "it has been 19 years since the Portland Harbor was listed as a Superfund Site, and that the State supports moving forward with final Remedial Design work under the 2017 Record of Decision [(ROD)] so that we can get to active cleanup of the contaminated sediments as soon as practicable," the spokeswoman says in a written response to questions on the meeting.

Wheeler acknowledged EPA intends "to move forward with the ROD cleanup," but he also recognized "there could be outside legal challenges to the ROD," the spokeswoman says.

EPA's press office did not respond to questions by press time on the discussion.

While Superfund law, under section 113(h), generally bars pre-enforcement judicial review of cleanup remedies including RODs, procedural challenges could nonetheless proceed, a source with Earthjustice, an environmental law firm, notes.

The source declined to say whether Earthjustice, which filed critical comments on EPA's proposed revisions to the cleanup plan, would seek to file a procedural suit.

But the source notes that EPA proposed the revisions to weaken the cleanup at the site through an Explanation of Significant Differences (ESD). A party could seek to challenge the agency over its use of an ESD, rather than an amendment to the ROD, to revise the cleanup plan, the source says.

The Obama administration in 2017 signed a ROD to clean up 10 miles of contaminated sediment in the Lower Willamette River within the site -- one of a handful of high-profile, contaminated sediment sites the agency is seeking to remediate under the Superfund law.

Under the Obama plan, cleanup was estimated to cost \$1 billion and require as many as 13 years of construction.

Last October, the agency released a proposed ESD to revise portions of the cleanup, proposing to pare back sediment cleanup levels for benzo(a)pyrene (BaP) and other carcinogenic polycyclic aromatic hydrocarbons (cPAHs). The proposed changes were prompted by an updated Integrated Risk Information System (IRIS) assessment that weakened estimated cancer risks for BaP, a key contaminant at the site.

The ROD had relied on a risk assessment that EPA conducted in the 1980s but the IRIS assessment that EPA finalized in January 2017 modified the oral cancer slope factor from 7.3 to 1 milligrams/kilogram/day for BaP, "resulting in a lower risk estimate associated with exposure to BaP and other cPAHs," the ESD says.

The revisions are predicted to lower cleanup costs by \$35 million and reduce the 2,200-acre cleanup by about 17 acres. 'Unravel The Cleanup'

But environmental and community groups weighed in strongly against the revisions, saying among many criticisms that the agency lacks the scientific basis to extrapolate the eased risk values from the BaP risk review to other chemicals in the same class at the site.

"EPA cannot unravel the Portland Harbor ROD through the backdoor based on a risk assessment on a single chemical," Earthjustice wrote in Dec. 21 comments to EPA on behalf of several groups including the Portland Harbor Cleanup Coalition, Willamette Riverkeeper, Audubon Society of Portland and Portland Harbor Community Advisory Group. During her discussion with Wheeler, Brown also pressed for EPA to assign sufficient staff to its operations office in Portland, noting it was too large of a project and too important to Oregonians to be staffed by EPA primarily out of the Region 10 office in Seattle, the spokeswoman says.

Wheeler told Brown he would discuss her staffing request with EPA Region 10 managers, she says.

The governor's office and the Oregon Department of Environmental Quality plan to provide joint comments to EPA after reviewing all of the public comments EPA received on the ESD as well as the federal agency's response to those comments, Brown's office says. EPA took public comment on the ESD through Dec. 21.

The Earthjustice source notes EPA must follow a procedural requirement to obtain the state's perspective on the revisions. -- Suzanne Yohannan (syohannan@iwpnews.com)

Antonio Bravo
Office of Wetlands, Oceans & Watersheds
202-566-1976